

of inheritance given to them by himself, or his uncle, shews what was his understanding of the plaintiff's promise at the time it was made to him; and that in the "desire and expectation," expressed in his will, he alluded to a provision having the nature and extent of the others there made or spoken of, and not merely a fettered donation, or an estate for life only. Hence, all circumstances considered, I have come to the conclusion, that the promise was made by the plaintiff, and to the extent alleged by the defendant.

To constitute a valid contract, the performance of which may be enforced either at law or in equity, it must be founded on a sufficient consideration. That is, the moving cause of the contract must be some benefit to the person called on to comply with it; or a benefit to a stranger; or some damage or loss sustained by the party claiming the performance; which benefit or loss has accrued or happened at the request or instance of the party of whom the claim is made.(s) Upon a mere naked pact or agreement, not founded on any such consideration, no suit, according to our law, can be sustained either at law or in equity. In the case under consideration, the defendant, it is shewn, did sustain a loss by reason of the promise of the plaintiff.

This promise, however, was not made by the plaintiff to the defendant; and yet it is, in general, essential to the nature of a consideration, that it should move from the party asking a performance of the contract: for if such party is a mere stranger to the consideration, having himself sustained no loss, nor conferred any benefit on the opposite party, he himself has no claim to have such contract fulfilled. But a father is under a natural obligation to provide for his children; and therefore, a promise made to him for their benefit, as in this instance, may well extend to them. As where a father was about to cut £1000 worth of timber to raise a portion for his daughter, the heir promised him, that if he would forbear from felling the timber, he, the heir, would pay the daughter £1000. The father did abstain, in consequence thereof, from cutting the timber, and died. It was held, that the contract with the father enured to the benefit of the daughter, was founded on a sufficient consideration, and that the daughter might sustain an action upon it against the heir, and recover.(t)

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(s) *Bunn v. Guy*, 4 East, 194; *Violett v. Patton*, 5 Cran. 150.—(t) *Dutton v. Poole*, 1 Vent. 318; *Martyn v. Hind*, Cowp. 443.